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FINDING OF NO SIGNIFICANT IMPACT

Annual Catch Limit Specification for Main Hawaiian Islands Deep 7 Bottomfish in 2011-12

(RIN 0648-XA470)

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Introduction

This Finding of No Significant Impact (FONSI) was prepared according to the guidelines established in National Marine Fisheries Service (NMFS) Instruction 30-124-1 (July 22, 2005) and the requirements set forth in National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (NAO 216-6, May 20, 1999), concerning compliance with the National Environmental Policy Act (NEPA). This FONSI is supported by the environmental impact analysis prepared in accordance with the requirements of NEPA and documented in the attached environmental assessment (EA).

Background

Bottomfish are caught by commercial and non-commercial fishermen around the main Hawaiian Islands (MHI). Federal requirements for the MHI bottomfish fishery include non-commercial fishing permits; non-commercial catch and effort logbooks; non-commercial bag limits; and until June 2011, the annual specification of a total allowable catch (TAC) limit applied to seven species of bottomfish and closure of the fishery upon reaching the TAC. Termed the "Deep 7," they include onaga (*Etelis coruscans*), ehu (*E. carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*P. sieboldii*), opakapaka (*P. filamentosus*), lehi (*Aphareus rutilans*), and hapuupuu (*Epinephelus quernus*). In June 2011, NMFS implemented new procedures for specifying annual catch limits (ACL) and accountability measures (AMs) for western Pacific fishery resources, including MHI Deep 7 bottomfish (76 FR 37285, June 27, 2011). The proposed action will replace the annual TAC specification and is intended to prevent overfishing and support the long-term sustainability of Hawaii bottomfish in accordance with the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP).

Proposed Action

NMFS proposes to specify an ACL and a corresponding annual catch target (ACT) for MHI Deep 7 bottomfish for the 2011-12 fishing year which begins on September 1, 2011 and ends August 31, 2012. When the ACT is projected to be reached, fishing for Deep 7 bottomfish in federal waters of the MHI will be closed through the end of the fishing year. The ACL specification is based upon a Pacific Islands Fishery Science Center stock assessment that takes into consideration bottomfish life history information, commercial catch data submitted by commercial fishermen, and research monitoring data. The ACL specification is 346,000 lb of Deep 7 bottomfish with a corresponding ACT specification of 325,000 lb, which is a reduction of 6 percent from the ACL. The ACT and closure of the fishery upon attainment of the ACT

serve as AMs to prevent the ACL from being exceeded. The ACLs and AMs were recommended by the Council in accordance with the ACL mechanism implemented pursuant to Amendment 3 to the Hawaiian Archipelago FEP. Section 1.5 of the EA describes the proposed action in more detail.

Coordination and Public Involvement

The Council developed its recommendations for the ACL and ACT after coordination with its Scientific and Statistical Committee at its 151st meeting held in June 2011 in Honolulu, Hawaii. A draft EA was coordinated with other federal and local government agencies through the Council process and through direct coordination described in section 4.9.4. No environmental or fishery issues were identified during that process. NMFS intends to publish the proposed 2011-12 ACL/ACT specifications for public review and comment in July 2011. NMFS will publish the final specifications prior to the scheduled opening of the fishery on September 1, 2011.

Significance Analysis

NAO 216-6 contains criteria for determining the significance of the environmental impacts of a proposed action. In addition, the Council on Environmental Quality's (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria for the selected alternative.

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

No. The proposed action is not expected to result in overfishing of the MHI Deep 7 bottomfish stock complex and is intended to support the long-term sustainability of fishery (EA, section 4.9.2). The proposed action is based on the latest stock assessment for MHI Deep 7 bottomfish stocks and takes into account scientific and management uncertainty. The proposed ACL of 346,000 lb is lower than the overfishing limit (OFL) of 383,000 lb and is associated with a 40.8 percent probability of overfishing the MHI Deep 7 complex (EA, Table 2). The proposed ACT of 325,000 lb is a 6 percent reduction from the ACL and provides a buffer to prevent the ACL from being exceeded. The ACT and closure of the fishery upon attainment of the ACT serve as AMs to prevent the ACL from being exceeded.

The Council's recommended ACL and ACT (and NMFS' proposed specifications) are based on the best available scientific information which includes an updated stock assessment. The proposed specifications were made with input from fishery scientists and managers who considered the risks to stocks of the proposed specifications. The OFL of 383,000 lb is equal to a 50 percent probability of overfishing, while the proposed ACL represents a 40.8 percent risk of overfishing. The ACT is an additional reduction in the catch limits. The scientific and management rigor that was used in developing the specifications, taken together with the AMs that will help ensure the ACL is not exceeded, and continued assessment of stocks over time, allow NMFS to conclude that it is not reasonably expected that the proposed specifications

would jeopardize the sustainability of any target species, despite the 40.8 percent probability of overfishing.

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

No. The MHI Deep 7 bottomfish fishery is fairly target-specific and the bycatch rate for non-target species is relatively low (approximately 8 percent of the total weight of fish caught) in this fishery. There is a potential for more non-target species caught compared with the 2010-11 fishing year because of a higher catch limit in the 2011-12 year; however, bycatch stocks are considered healthy and the specified ACL for Deep 7 bottomfish is not expected to significantly affect bycatch stocks or their prey, competitors and predators. All fish that are caught and discarded must be reported on federal logbooks, which will allow NMFS and other fishery managers to monitor bycatch and respond to fishery management needs in the future, as necessary. Fishery managers have produced informational materials that fishermen can use to treat fish for barotrauma, as needed, prior to releasing them (EA, section 4.2).

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans?

No. Bottomfish fishing in Hawaii has no adverse effects to water column essential fish habitat or habitat areas of particular concern, and although lost bottomfish fishing gear has the potential to impact substrate, a 2004 research study in the northwestern Hawaiian Islands indicated little damage or debris was attributable to the bottomfish fishery. Comparable research has not been conducted on the MHI bottomfish fishing sites, but is expected to yield similar findings (EA, section 3.7). The ACL will not result in a change of gear or operations and there is no anticipated increase in the potential for gear loss (EA, section 4.4).

4) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

No. The proposed action is not expected to adversely impact public health or safety because the fishery is not expected to change as a result of the specification, except that the fishery may remain open longer. The ACL allows more fish to be caught than in the previous year, so the ACL is not expected to result in a race for the fish (EA, section 4.1).

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

No. The current MHI bottomfish fishery operates in accordance with a Biological Opinion prepared in March 18, 2008, which determined that fishing activities under the Hawaii FEP are not likely to jeopardize the continued existence of any endangered or threatened species, marine mammal or result in the destruction or adverse modification of critical habitat. The MHI bottomfish fishery is listed as a Category III fishery under section 118 of the MMP because it is a fishery with a low likelihood of, or no known, incidental takings of marine mammals (EA,

section 3.6), The ACL and ACT specifications will not result in a large change to the conduct or nature of the MHI bottomfish fishery. The proposed action may allow the fishery to remain open for a longer period compared to the 2010-11 fishing year, but will not result in changes to the fishery in any way that will result in interactions with protected species or their critical habitat not already considered by Endangered Species Act and Marine Mammal Protection Act consultations. Fishery participants will continue to be responsible for reporting any interactions with listed species under State and Federal regulations; these reports allow resource agencies to monitor interactions, and respond appropriately (EA, section 4.9.3).

The proposed action would not impact critical habitat, as there is none in the main Hawaiian Islands. The limited amount of additional fishing activity that may occur is not expected to have a significant effect on habitat areas of special concern including areas proposed as monk seal critical habitat (EA, section 4.3).

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

No. No impacts on biodiversity and/or ecosystem function were observed in the 2010-11 fishing year. The level of fishing that will be allowed was developed to ensure sustainability of the target resources and is not expected to result in large changes to the fishery; therefore, there are no expected large or adverse effects of the proposed action on biodiversity and/or ecosystem function.

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

No. No significant social or economic impacts were found that were interrelated with natural or physical environmental effects. The ACL specification will allow fishermen to sustainably harvest Deep 7 bottomfish for a longer time over the course of the fishing year, compared with last year's catch limit; but the ACL will not result in large changes to the size, or conduct, of the fishery. No Environmental Justice concerns were found in the course of developing the EA. (EA, section 4.5)

8) Are the effects on the quality of the human environment likely to be highly controversial?

No. The Council developed the recommended ACL and AMs in accordance with the required process and in coordination with fishery scientists, managers, other resource managers, and the public. None of the effects on the quality of the human environment were found to be highly controversial. The specification will help ensure long-term sustainability of the MHI Deep 7 bottomfish resource, while allowing for optimal yield.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?

No. The current MHI BF fishery does not have a large adverse impact to such unique resources or areas. The expected fishery outcome is a possible extension of the duration of the fishing season and no large changes to the fishery itself, fishery activities, or impacts of the fishery are expected as a result of the ACL and ACT specifications.

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

No. The effects on the human environment are not highly uncertain or unknown because the ACL and ACT will establish a catch limit that ensures sustainability of the target fish stocks. The limits were developed based on a recent Deep 7 bottomfish complex stock assessment which estimated that the ACL is associated with a 40.8 percent risk of overfishing. As described in the EA, the MHI Deep 7 bottomfish fishery is carefully regulated and has operated under catch limits for the past 4 years, so managers are well acquainted with the likely environmental outcomes. In addition to in-season closures once the ACT is reached, the fishery will continue to be required to report catch, bycatch and protected resources interactions, which also keeps the likelihood of uncertain environmental impacts low.

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

No. The cumulative impacts of the proposed action are discussed in question 16, below.

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?

No. Such areas do not exist where the fishery operates, so there would be no such adverse effects. Additionally, the MHI bottomfish fishery is does not have a destructive impact on the environment and the limited amount of additional fish that may be caught under the specification is not expected to adversely affect any such cultural, scientific, or historical resources that may occur in the areas adjacent to areas where bottomfishing occurs.

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

No. The catch limit will not change the way or locations in which the fishery is conducted, so it is not expected to result in the spread of any nonindigenous species.

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

No. The manner in which the ACL and ACT specifications and AMs were developed is consistent with regulations in the Hawaii FEP. NMFS's specification of an ACL and ACT will not result in automatic approval for future actions or affect future decisions about appropriate ACLs, ACTs, or AMs.

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

No. The proposed action complies with requirements of Federal law. The proposed specifications and a preliminary environmental analysis were coordinated with a variety of other agencies and no violation of Federal, State, or local law or requirements for environmental protection was found. Section 4.9.4 in the EA describes coordination with others.

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target or non-target species?
No. The ACL and ACT help ensure that the MHI Deep 7 bottomfish fishery is sustainable. There are no cumulative adverse effects to target or non-target species anticipated from the catch limits. The fishery is closely managed and will be closed when the ACT is believed to be reached. Fishermen in the fishery already switch between bottomfishing and pelagic trolling during the summer, so no large impacts are expected to occur on target or non-target species in that fishery either.

Other Findings
NMFS also considered the effects of the project on climate change and climate change impacts on the feasibility of the project. The 2008 Biological Opinion considered the potential impacts of climate change on sea turtle populations, and climate change impacts on bottomfish will be considered as stocks are assessed. The proposed ACL will allow an additional amount of bottomfish to be caught, but because the vessels would likely be used for trolling or other boating activities, the change is not likely to result in a substantial change in greenhouse gas emissions (EA, section 4.8).

Determination
In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the 2011-12 Annual Catch Limit Specification for the Main Hawaiian Islands Deep 7 Bottomfish Complex, and dated July 15, 2011, I have determined that the proposed action will not significantly impact the quality of the human environment as described above and in the supporting EA. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

Michael D. Tosatto
Regional Administrator

7/15/11
Date